

REMARKS

Claims 1-8 currently are pending and subject to examination with claims 1 and 8 amended. No new matter is added by the foregoing amendments and these amendments are fully supported by the specification. The Applicants respectfully request that the Examiner reconsider the above-captioned patent application in view of the following remarks.

1. Summary of Rejections

The Examiner provisionally rejected claims 1 and 8, as allegedly being obvious under the judicially created doctrine of obviousness-type double patenting in view of copending U.S. Patent Application No. 10/673,160. The Examiner rejected claims 1-4 and 8 under 35 U.S.C. § 102(b), as allegedly being anticipated by Nagaki (U.S. Pat. Application No. 2001/0004724 "Nagaki '724"). The Examiner rejected claims 5-7 under 35 U.S.C. § 103(a), as allegedly being obvious in view of Nagaki '724 and Nagaki (Japanese Patent application No. 2001-165671 "Nagaki '671").

2. Double Patenting Rejections

a. Claim 1

The Examiner provisionally rejected claim 1 under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over U.S. Patent Application No. 10/673,160. The terminal disclaimer filed herewith renders this rejection moot. Therefore, Applicants respectfully request Examiner withdraw the provisional rejection of claim 1 at least for this reason.

b. Claim 8

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The Examiner provisionally rejected claim 8 under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over U.S. Patent Application No. 10/679,285. Applicants' respectfully traverse this provisional rejection. The '285 application was filed on October 7, 2003, eight days after the present application. Consequently, the filing of a terminal disclaimer would not shorten the time period that the present application, if issued as a patent could be enforced. As the present application was the first filed, a double patenting rejection is improper for claim 8 of the present application. Therefore, Applicants respectfully request Examiner withdraw the provisional rejection of claim 8 for at least this reason.

3. Rejections under 35 U.S.C. § 102(b)

a. Claims 1-4 and 8

Claims 1-4 and 8 were rejected under 35 U.S.C § 102(b), as allegedly anticipated by Nagaki '724. The Applicants respectfully traverse this rejection as follows.

Claim 1, as amended, recited in part

a vehicle navigation system comprising first and second recording devices storing therein first and second computer programs, respectively, wherein said first and second computer programs are used for vehicle navigation;

a first execution module executing said first computer program;

a second execution module executing said second computer program;

an install module transferring data stored in said second recording device to said first recording device, wherein said install module and said second execution module operates concurrently with vehicle navigation operation achieved by said second computer program being executed by said second execution module, wherein said first execution

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module is prohibited from operating during operation of said second execution module.

Consequently, claim 1 describes a vehicle navigation system where the install module, which transfers data stored in the second recording device to the first recording device, operates concurrently with vehicle navigation operation. Claim 8 includes similar limitations to claim 1.

In contrast, Nagaki '724 discloses that data read from a DVD-ROM is installed onto a hard disc drive (HDD), and the data read from the DVD-ROM is used for displaying a map during the installation.

Nagaki '724, however, fails to disclose or suggest that navigation operation for providing a guide to the destination is implemented during the data installation. The architecture disclosed in Nagaki does not allow navigation operation using updated data during the installation. Nagaki's system cannot provide a guide to the destination (implement navigation operation) when any of the destination, the present location, and the route therebetween is described in data that has yet to be read from the DVD-ROM or in the data not to be updated during the installation, even if Nagaki's system is operated to do so.

Claim 1 and 8, on the contrary, recite navigation operation using the update data recorded on the second recording device (ex. DVD) during the installation of the update data onto the first recording device (ex. HDD). This effectively avoids the navigation operation being interrupted by the data installation.

Consequently, Nagaki '724 fails to teach and/or suggest the claimed invention. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claims 1 and 8 under 35 U.S.C. §102(b).

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Claims 2-4 depend from allowable claim 1. Therefore, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 2-4 at least for the above reasons.

3. Rejections under 35 U.S.C. § 103 (a)

Claims 5-7 were rejected under 35 U.S.C. § 103(a), as allegedly being obvious in view of Nagaki '724 and Nagaki '671 references. The Applicants respectfully traverse this rejection, as follows.

In order to establish a prima facie case for obviousness, three (3) criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to those of ordinary skill in the art, to modify the primary reference as the Examiner proposes. Second, there must be a reasonable expectation of success in connection with the Examiner's proposed combination of the references. And third, the references must disclose or suggest all of the claim limitations. MPEP 2143.

Claims 5-7 depend from claim 1. As set forth above, Nagaki '724 fails to disclose or suggest navigation operation for providing a guide to the destination is implemented during the data installation. This deficiency is not remedied by Nagaki '671. Nagaki '671 does not disclose or suggest that navigation operation is implemented during the data installation, either.

If an independent claim is nonobvious under 35 U.S.C. 103 then any claim depending therefrom is nonobvious. See MPEP 2143.03. Therefore, Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claims 5-7 under 35 U.S.C. under 35 U.S.C. §103(a).

CONCLUSION

Applicants respectfully submit that the above-captioned patent application is in condition for allowance, and such action is earnestly solicited. If the Examiner believes that an in-person or telephonic interview with Applicants' representatives would expedite the prosecution of the above-captioned patent application, the Examiner is invited to contact the undersigned attorney of records.

In the event that this paper is not considered to be timely filed, Applicants respectfully petition for an appropriate extension of time. In the event of any variance between the fees determined by Applicants and those determined by the U.S. Patent and Trademark Office, please charge any such variance to the undersigned's Deposit Account No. 01-2300, referring to client matter number **107391-00000**.

Respectfully submitted,



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Enclosures: Petition for Extension of Time
Terminal Disclaimer

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